

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**MELVIN GRIFFIN, JR.**

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**CRIMINAL NO. 4:05-CR-173-7**

**REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

On January 15, 2009, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant, Melvin Griffin, Jr. a/k/a Chuck. The government was represented by Maureen Smith, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Denise Benson.

Defendant originally pleaded guilty to the offense of Conspiracy to Distribute or Possess with Intent to Distribute or Dispense Cocaine Base and Marijuana, a Class C felony. The offense carried a statutory maximum imprisonment term of 20 years. The United States Sentencing Guideline range, based on a total offense level of 13 and a criminal history category of IV, was 24 to 30 months. On May 11, 2006, U.S. District Judge Michael H. Schneider, of the Eastern District of Texas, sentenced Defendant to Time Served followed by three years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug treatment and testing, repay delinquent child support and a \$100 special assessment. On May 11, 2006, Defendant completed the term of imprisonment and began service of the supervision term.

Under the terms of supervised release, Defendant was prohibited, in relevant part, from: committing another federal, state, or local crime; and unlawfully purchasing, possessing, using, distributing, or administering any controlled substance or any paraphernalia related to such

substances, except as prescribed by a physician. In its petition, the government alleges that Defendant violated his conditions of supervised release by being arrested on July 18, 2008, by McKinney Police Department for Manufacturing/Delivery of a Controlled Substance, Cocaine, a State Jail Felony. The offense conduct occurred on or about February 14, 2008. The Defendant also violated his conditions of supervised release by being arrested on July 7, 2008, by McKinney Police Department for Manufacturing/Delivery of a Controlled Substance, Cocaine, a Second Degree Felony. The offense conduct occurred on or about January 22, 2008. The defendant pled guilty and received a fifteen year concurrent sentence in both cases.

If the Court finds by a preponderance of the evidence that Defendant committed these violations, a statutory sentence of no more than two years of imprisonment may be imposed. 18 U.S.C. § 3583(e)(3). Pursuant to Section 7B1.1(a) of the Sentencing Guidelines, violating a condition of supervision by committing another state or local crime on or about January 22, 2008 and February 14, 2008 would constitute a Grade A violation, for which the Court shall revoke Defendant's term of supervised release in favor of a term of imprisonment. U.S.S.G. § 7B3.1(a)(1). Considering Defendant's criminal history category of IV, the Guideline imprisonment range for a Grade A violation is 24 to 30 months. U.S.S.G. § 7B1.4(a).

At the hearing, Defendant pled true to violating a mandatory condition of supervision by committing a crime under state law.

Due to the fifteen year sentence Defendant has already received for the underlying conduct above, the Court finds that a downward departure from the guideline range is appropriate. Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant, Melvin Charles Griffin, Jr. a/k/a Chuck, be committed to the custody of the Bureau of Prisons for a term of

imprisonment of 20 months, to be served consecutively to any sentence of imprisonment the defendant is serving in cause numbers 366-82120-08 and 366-82121-08, with no supervised release to follow.

**So ORDERED and SIGNED this 16th day of January, 2009.**

  
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JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE